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Attorney for Plaintiff

BRYAN E. GLYNN

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

BRYAN E. GLYNN,

Plaintiff,

v.

LA LOUNGE LLC,

Defendant.

Case No.: 2:18-cv-06774-VAP (SKx)

**DECLARATION OF BRYAN E.  
GLYNN IN SUPPORT OF  
APPLICATION FOR MOTION  
FOR DEFAULT JUDGMENT  
AGAINST LA LOUNGE LLC**

I, Bryan E. Glynn, declare as follows:

1. I am a professional photographer who resides in Florida. I am the plaintiff in the above-referenced action. I create and license photographic images for various uses, including architecture, weddings, models, landscapes, concerts, sports and tabletop. I provide this declaration in support of Plaintiff's Application for

1 Default Judgment against Defendant LA Lounge LLC (“Motion”). The following is  
2 of my own personal knowledge, and if called as a witness in this matter, I could and  
3 would competently testify thereto.

4       2. Among my many copyrighted photographs are three images of cigars  
5 taken in 2015 and titled “150402pgpr0001-Edit”, “201208181adcer0001-edit”, and  
6 “20130708hul001-edit” (collectively the “Copyrighted Works”). I am the exclusive  
7 owner of the copyrights in and to the Copyrighted Works. To create these  
8 photographs, I invested hours of time and effort on the photo shoot itself and in later  
9 production enhancing the quality of the image.

10       3. Effective as of January 21, 2017, I obtained a registration with the United  
11 States Copyright Office for a collection of photographic images entitled, “Cigar  
12 Photographs” (Registration Number VAu 1-271-409), which covers (among other  
13 images) the Copyrighted Works. Attached as Exhibit 1 to the Complaint filed on my  
14 behalf in this action is a true and accurate copy of the certificate of registration with  
15 the Copyright Office, identified as Registration Number VAu 1-271-409.

16       4. The Complaint in paragraph 11 is a true and accurate copy of the  
17 Copyrighted Works which were submitted (along with other photographs) with the  
18 application for registration that resulted in Registration Number VA 1-271-409 by the  
19 Copyright Office.

1           5.     I own all rights, title, and interest, including copyrights, in and to the  
2 Copyrighted Work.

3           6.     I first learned of Defendant's unauthorized use of my Copyrighted Works  
4 on August 9, 2017.

5           7.     I have agreed to license my photographs for commercial uses on prior  
6 occasions for \$3,000. I believe that this \$3,000 number should be multiplied by four  
7 for a total of \$12,000 per photograph to deter future infringement for a total statutory  
8 damages award of \$36,000 for Defendant's willful copyright infringement of my three  
9 photographs.

10          8.     The techniques that I use are difficult to execute effectively. My photos  
11 are made using special photography capture techniques to capture photographs from  
12 perspectives that would not otherwise be possible.

13          9.     Significant technical attributes were required to make the Copyrighted  
14 Work including; image location scouting to identify potential photo locations, angles;  
15 and using advanced photo exposure control, both in-camera and via post-production  
16 software, to ensure a common brightness, contract, clarity, color temperature, color  
17 saturation, color tonality, and image noise reduction.

18          10.    The typical range of fees I receive for licensing the right to make  
19 commercial use and display of one of my copyrighted photographs similar in quality  
20 and popularity to the Copyrighted Work is \$3,000-\$5,000.

1           11. Had Defendant LA Lounge LLC (“Defendant”) requested a license to  
2 reproduce and display the Copyrighted Works on its Website, I would have charged at  
3 least \$3,000 per photograph for permission to use them on its website for a one-year  
4 term.

5           12. A significant portion of the revenue I generate from my photography  
6 work comes from licensing photos for secondary uses, such as the use made by  
7 Defendant. The ability of someone like Defendant to reproduce, distribute and display  
8 the Copyrighted Works for its own commercial benefit without compensation to me  
9 greatly impairs the market value of the Copyrighted Works since others competing  
10 with that business, or in related business areas, will not want to obtain a license to my  
11 work if it is already associated with a competing business.

12           13. The Copyrighted Works have lost significant value to its scarcity by the  
13 widespread and continuing dissemination resulting from Defendant’s infringement.

14           14. I believe my damages to be \$72,000 after considering a scarcity  
15 multiplier of 2 to the licensing fee of \$36,000.

16           15. I consulted the Internet Archive Wayback Machine (the “Internet  
17 Archive”) at the following address website address:  
18 <http://web.archive.org/web/20170511001748/http://www.lalounge.us/>. A true and  
19 correct copy of the Internet Archive Wayback Machine is attached hereto and Marked  
20 **Exhibit A**.

1           16.    The Internet Archive shows use of the Copyrighted Works going back to  
2 May 1, 2017.

3           17.    The Copyrighted Works was taken down by Defendant sometime after  
4 April 4, 2018.

5           18.    The Copyrighted Works was used for almost one year by Defendant  
6 without a license.

7 I declare under penalty of perjury under the laws of the United States that the  
8 foregoing is true and correct. Executed this 7th day of January 2019, at Land O Lakes,  
9 Florida.

10   
BRYAN E. GLYNN